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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/790,309	03/01/2004	Peter J. Whitehead		9329

7590 10/11/2005
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EXAMINER

SHAHER, RICKY D

ART UNIT PAPER NUMBER

2872

DATE MAILED: 10/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/790,309

Applicant(s)

WHITEHEAD, PETER J.

Examiner

Ricky D. Shafer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21, 24-41 and 48-68 is/are pending in the application.
- 4a) Of the above claim(s) 3-7, 11, 15, 18, 19 and 24-41 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 49 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 8-10, 12-14, 16, 17, 20, 21, 48 and 50-68 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 July 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 2, 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakaho ('488).

Nakaho discloses a vehicular interior rearview mirror system comprising an interior rearview mirror assembly; said interior rearview mirror assembly comprising a mirror casing (3) having a reflective element (20) with a rearward field of view; said interior rearview mirror assembly further comprising a support (1) being adapted to mount said mirror assembly to a vehicle; and an electrical actuator (6,7) located interiorly of said support, said electrical actuator cooperating with said support to provide adjustment of said mirror casing about said support when said electrical actuator is actuated to thereby provide adjustment of said rearward field of view of said reflective element about multiple axes when said actuator is actuated, wherein said reflective element serves as a variable reflectance element, when said reflective element is switched from a day time condition to a night time condition, note Fig. 1 to 6 along with the associated description thereof, except for the reflective element being responsive to a memory mirror system.

It is well known to use memory mirror systems in the same field of endeavor for the purpose of controlling actuators to adjust a position of a reflective element.

Therefore, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify the actuator(s) of Nakaho to include a memory mirror system, as

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is well known in the art, in order to store and/or recall ones desirable positional orientations of said reflective element based on driver preferences.

3. Claims 1, 2, 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fukae ('641).

Fukae discloses a vehicular interior rearview mirror system comprising an interior rearview mirror assembly; said interior rearview mirror assembly (4,5) comprising a mirror casing (5) having a reflective element (4) with a rearward field of view and at least one socket (7,8); said interior rearview mirror assembly further comprising a support (1,2) being adapted to mount said mirror assembly to a vehicle; and an electrical actuator (9,11) located interiorly of said support having a pivot member (3,6), said electrical actuator including at least one positioning member (10,14) cooperating with said support to provide adjustment of said mirror casing about said support when said electrical actuator is actuated to thereby provide adjustment of said rearward field of view of said reflective element about multiple axes when said actuator is actuated, wherein said reflective element serves as a variable reflectance element, when said reflective element is switched from a day time condition to a night time condition, note figures 1 to 5 along with the associated description thereof, except for the reflective element being responsive to a memory mirror system.

It is well known to use memory mirror systems in the same field of endeavor for the purpose of controlling actuators to adjust a position of a reflective element.

Therefore, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify the actuator(s) of Fukae to include a memory mirror system, as is well known in the art, in order to store and/or recall ones desirable positional orientations of said reflective element based on driver preferences.

4. Claims 10, 14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakaho ('488).

Nakaho discloses all of subject matter claimed, note the above explanation, except for explicitly stating that the support is tubular and is adapted to mount to a windshield of a vehicle with a break-away connection.

It is well known to use a break-away connection at end one of a tubular support for an interior rearview mirror assembly in the same field of endeavor for the purpose of attaching an interior rearview mirror assembly to a windshield of a vehicle.

Therefore, it would been obvious to one of ordinary skill in the art at the time the invention was made to modify the vehicle attachment end of the support of Nakaho to be tubular and include a break-away connection, as is well known and commonly used and employed in the art, in order to reduce the weight of the mirror assembly and reduce to prevent possible injuries to occupants within the vehicle.

5. Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakaho ('488) or Fukae ('641).

Nakaho and Fukae each disclose all of subject matter claimed, note the above explanation, except for one or more electrical devices positioned in a compartment between the back wall of the mirror casing and the reflective element.

It is well known to use an electrical device, such as an electrochromatic film, positioned between a mirror casing and a reflective element in the same field of endeavor for the purpose of obtaining particular optical reflection characteristics of interest.

Therefore, it would been obvious and/or within the level of one of ordinary skill in the art at the time the invention was made to modify Nakaho or Fukae to include an electrical device such as an electrochromatic film, between the mirror casing and reflective element or alternatively modify the reflective element to include an electrochromatic film, as is well known in the art, in order to obtain desirable optical reflection characteristics of interest.

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6. Claims 10, 14, 16, 17, 48, 50-52 and 55-60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fukae ('641).

Fukae discloses all of subject matter claimed, note the above explanation, except for explicitly stating that the support is tubular and is adapted to mount to a windshield of a vehicle with a break-away connection.

It is well known to use a break-away connection at end one of a tubular support for an interior rearview mirror assembly in the same field of endeavor for the purpose of attaching an interior rearview mirror assembly to a windshield of a vehicle. (Note the references cited by the examiner).

Therefore, it would be obvious to one of ordinary skill in the art at the time the invention was made to modify the vehicle attachment end of the support of Fukae to include a break-away connection, as is well known and commonly used and employed in the art, in order to reduce the weight of the mirror assembly and to prevent possible injuries to occupants within the vehicle.

As to the limitations of claims 51 and 52, it is well known to use rain sensors in the same field of endeavor for the purpose of detecting the moisture on the windshield. (See page 4, lines 20 to 27 of applicant's specification, i.e., U.S. Patent 4,973,844).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the windshield of a vehicle in which said interior rearview mirror assembly of Fukae is to be installed to include a rain sensor or the support (housing) of the rearview mirror assembly to include a rain sensor, as is well known and commonly used and employed in the art, in order to detecting a moisture on the windshield so as to automatically operate the windshield wipers.

7. Claims 20, 21, 53 and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fukae ('641) as applied to claims 10, 14, 16, 17, 48, 50, 51 and 55-60 above, and further in view of O'Farrell et al ('575).

Fukae discloses all of subject matter claimed, note the above explanation, except for the actuator(s) being coupled at least one control module (system) having a mirror based control module of a mirror memory system.

O'Farrell et al teaches it is known to use at least one mirror-based control module in the same field of endeavor for the purpose of actuating actuators to adjust the positions of reflective elements of an interior and exterior rearview mirror assemblies.

Therefore, it would be obvious to one of ordinary skill in the art at the time the invention was made to modify the support (housing) of the rearview mirror assembly of Fukae to include a mirror based control module, as taught by O'Farrell, in order to provide a dynamic position control in a mirror memory system.

8. Claims 61 to 68 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Farrell et al ('575) or Jain et al ('870) in view of Fukae ('641), Ochiai et al ('898) or Nakaho ('488) and Wittmann ('543) or Mizuta et al ('571).

O'Farrell et al and Jain et al each teach the basis concept of at least one mirror-based control module (38) and (33), respectively, for actuating actuators to adjust the positions of the reflective elements of an interior and exterior rearview mirror assemblies, note figures 5 and 8, respectively, except for explicitly stating the structure of the interior and exterior rear view mirror assemblies.

Fukae, Ochiai et al and Nakaho each discloses the structure of a typical interior rearview assembly recited by applicant in the same field of endeavor for the purpose of adjusting an interior rearview mirror assembly.

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Wittmann and Mizuta et al each discloses the structure of a typical exterior rear view mirror assembly recited by applicant in the same field of endeavor for the purpose of adjusting an exterior rearview mirror assembly.

Therefore, it would have been obvious and/or within the level of one of ordinary skill in the art at the time the invention was made to modify the interior mirror of O'Farrell or Jain et al to include a typical interior rearview assembly commonly used and employed in the art, as taught by Fukae, Ochiai et al or Nakaho, and modify the exterior mirror(s) of O'Farrell or Jain et al to include a typical exterior rear view mirror commonly used and employed in the art, as taught by Wittmann or Mizuta et al in order to adjust the relative positions of the reflective elements of said interior and exterior rearview mirror assemblies.

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ricky D. Shafer whose telephone number is (571) 272-2320.


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The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RDS

October 02, 2005


RICKY D. SHAFER
PATENT EXAMINER
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